



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF WATER

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The Honorable Mark Kelly  
United States Senate  
Washington, D.C. 20510

Dear Senator Kelly:

Thank you for your August 4, 2022 letter to the U.S. Environmental Protection Agency (EPA) regarding funding appropriated by the Infrastructure Investment and Jobs Act, P.L. 117-58, commonly referred to as the Bipartisan Infrastructure Law (BIL), to address emerging contaminants under Sections 1459A(a) through (j) of the Safe Drinking Water Act (SDWA). The goal of the Emerging Contaminants in Small or Disadvantaged Communities grant program is to reduce exposure to per- and polyfluoroalkyl substances (PFAS) and other emerging contaminants in drinking water<sup>1</sup> in communities that may not have resources to fund projects necessary to address these risks. This historic opportunity to invest in small and disadvantaged communities demonstrates the commitment from President Biden and Congress to address PFAS contamination, perchlorate, and other emerging contaminants in drinking water with higher levels of occurrence or health concerns.

EPA reviewed the concerns raised in your letter related to the need for state guidance on grant funding flexibility. After careful consideration, EPA has concluded that Section 1459A(j) does not authorize the Agency to provide grants to states to address private well contamination not involving a public water system. Section 1459A(j)(1) grant funds could be used by states for non-routine household water quality testing if the testing would determine whether private well owners should be connected to a public water system or to assist a group of private well owners who want to create a new public water system. These grant funds could also be used to provide point-of-use and point-of-entry filters or filtration systems temporarily, until the private well owners are connected to an existing or new public water system. Section 1459A(j)(1) does not provide authority to support treatment or well remediation for individual well owners or to clean up contaminated aquifers that do not impact public water systems.

A key priority of the BIL is to ensure that disadvantaged communities benefit equitably from the law's historic investment in water infrastructure. EPA's BIL State Revolving Fund Memorandum, issued in March 2022, notes that states have the flexibility to define disadvantaged community in a manner that is consistent with the SDWA.<sup>2</sup> The memorandum also highlights the need to increase investment in disadvantaged communities and discusses EPA's expectations that states will take steps to do so throughout the five years of BIL implementation, including by evaluating and revising, as needed, their disadvantaged community definitions under Section 1452(d)(3) of the SDWA. EPA included information in its memorandum to assist states with evaluating and developing a disadvantaged community definition and affordability criteria. States participating in this new Emerging Contaminants in Small or Disadvantaged Communities grant program will have the flexibility to define disadvantaged

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<sup>1</sup> This grant focuses on projects in which the primary purpose is to address the challenges of PFAS in drinking water, whether it is found in the public water system or in source water. Projects that address any contaminant listed in any of EPA's Contaminant Candidate Lists (<https://www.epa.gov/ccl>) are also eligible.

<sup>2</sup> <https://www.epa.gov/dwsrf/bipartisan-infrastructure-law-srf-memorandum>

communities, consistent with SDWA Section 1459A(c)(2). We also note that eligible communities include those that may not meet a state's definition of disadvantaged, but that meet the definition of "small community" in SDWA Section 1459A(c)(2)(B).

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Julie McLaughlin in EPA's Office of Congressional and Intergovernmental Relations at [mclaughlin.julie@epa.gov](mailto:mclaughlin.julie@epa.gov) or (202) 566-2542.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Fox', with a long horizontal flourish extending to the right.

Radhika Fox  
Assistant Administrator